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In re Application of :
SOBEK :
Application No.: 10/018,967 : DECISION ON PETITION
PCT No.: PCT/EP00/05270 :
Int. Filing Date: 07 June 2000 : UNDER 37 CFR 1.181
Priority Date: 11 June 1999 :
Attorney Docket No.: 112-041 :
For: LAMINATED GLASS SYSTEM :

This decision is in response to applicant's "Request to Withdraw Holding of Abandonment" filed 23 September 2005 in the United States Patent and Trademark Office (USPTO). The request is being treated as a petition under 37 CFR 1.181. No petition fee is required.

BACKGROUND

On 21 March 2002, applicant was mailed a decision granting applicant's petition under 37 CFR 1.137(b) to revive the present National stage application.

On 27 March 2002, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date, as well as, an English translation of the international application as filed. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 28 May 2002, applicant filed a response which included an executed declaration and a purported English translation of the international application as filed.

On 18 June 2002, applicant was mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) indicating that the filed translation was defective as the number of claims in the filed English translation did not match the number of claimed in the international application as filed. Applicant was afforded one month from the mailing of the Form PCT/DO/EO/916 or the amount of extendable time from the mail date of the Form PCT/DO/EO/905 to file a proper reply.

On 18 July 2002, applicant filed a response arguing that both the English translation and the international application as filed contained 22 claims and that the mailing of the Form PCT/DO/EO/916 was not understood.

On 29 April 2003, applicant was mailed a notification of abandonment for failure to file a proper reply to the Form PCT/DO/EO/916 mailed 18 June 2002.

On 23 September 2005, applicant filed the present petition.

DISCUSSION

The abandonment of this application turns on the number of claims in the case. 35 U.S.C. 371(c)(2) requires applicant to provide an English translation of the international application as filed. As detailed in the Manual of Patent Examining Procedure (MPEP) § 1893.01 (d):

The translation must be a translation of the international application as filed or with any changes which have been properly accepted under PCT Rule 26 or any rectifications which have been properly accepted under PCT Rule 91. A translation of less than all of the international application (e.g. a translation that fails to include a translation of text contained in the drawings or a translation that includes a translation of claims amended under PCT Article 19 or 34 but does not include a translation of the original claims) is unacceptable (boldness added).

Notwithstanding applicant's argument that the filed English translation and the international application as filed both contain 22 claims, a review of filed international application as published (WO 00/76763) shows that it contained 20 claims. As such, applicant did not provide a proper English translation of the international application within the time periods provided and abandonment of the application in the National stage in the United States of America was proper.

There is no indication that a change in correspondence address has been filed for the above-identified application. While a courtesy copy of this decision is being mailed to the address indicated in the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.181 is **DISMISSED**.

Any response to this decision must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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